Form No. J.(2)
Item No.5
Pallab/KS AR(Ct.)

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 08.07.2025

DELIVERED ON: 08.07.2025

CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE BIVAS PATTANAYAK

M.A.T. 960 of 2025
With
I.A. No. CAN 1 of 2025

Truvolt Engineering Company Pvt. Ltd. & Anr.
Vs.
The Deputy Commissioner of State Tax, Chandni Chawk and Princep Street Charge & Ors.

Appearance:-
Mr. Ankit Kanodia
Ms. Megha Agarwal ....**For the Appellants**

Mr. Anirban Ray, Ld. G.P.
Md. T. M. Siddiqui, Ld. A.G.P.
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal ...... **For the State**

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the writ petitioners is directed against the order dated 23rd June, 2025 in W.P.A. 14955 of 2024.

2. In the said writ petition, the petitioners/appellants prayed for a direction upon the authority to pay the interest on the refund sanctioned for the excess Value Added Tax ITC for the period 2014-15 vide sanctioned order dated 2nd May, 2024 and 17th May, 2024 from the date of the appeal order dated 18th January, 2018 passed by the Joint Commissioner, Commercial Taxes, Dharamtolla Circle and such interest to be payable till the date of actual refund credit.

3. The writ petition was filed in 2024 and the matter was pending and from time to time, the matter was adjourned and the learned Writ Court had made certain observations while adjourning the matter. During the pendency of the

writ petition, the original authority viz. the Deputy Commissioner of Revenue, Chandni Chawk & Princep Street Charge passed an order on 11th June, 2024 granting Rs.68,82,735/- to the appellants for the payment of interest on delayed payment of refund. The claim for interest made by the appellants is more than Rs.1.50 crores. On receipt of the said order dated 11th June, 2024, the appellants have raised detailed objections dated 12th June, 2025, which has been received in the office of the respondent on the very same day i.e. 12th June, 2025, which could be seen pending from the date affixed in the copy of the objection. However, this objection is yet to be considered by the authority and no order has been passed.

4. Considering the fact that the case has a chequered history and the appellants had earlier approached this Court by filing a writ petition in W.P.A. 9500 of 2024 and the interest on delayed payment of refund has been duly delayed and the partial refund has been granted during the pendency of the writ petition, we are of the view that the authority viz. Deputy Commissioner of Revenue, Commercial Taxes, West Bengal should pass a speaking order on the objection/representation dated 12th June, 2025. It would augur well to the said authority to afford an opportunity of personal hearing to the authorized representative of the appellants so as to enable them to place the records and other details that may be required to be considered.

5. Accordingly, we dispose of this appeal alongwith the connected application (I.A. No. CAN 1 of 2025) by directing the Deputy Commissioner of Revenue, Commercial Taxes, West Bengal, Chandni Chawk and Princep Street Charge to pass a speaking order on the objection/representation made by the appellants dated 12th June, 2025 after affording an opportunity of personal hearing to the authorized representative of the appellants within a period of four weeks from the date of receipt of server copy of this judgment and order.

6. Learned Senior Advocate appearing for the respondent/State submitted that the writ petition was not maintainable before this Court and, therefore, was rightly disposed of by directing the appellants to approach the West Bengal Taxation Tribunal.

7. The rule of alternative remedy is a flexible rule and the Hon'ble Supreme Court has drawn several exceptions to such Rule, which have to be applied by considering the facts and circumstances of the case. Going by the conduct of the respondent/Department in not passing any order on the interest application for a long period of time and even after the writ petition was filed and during the pendency, partial payment of interest was made, this Court is of the view that the writ petition can be entertained by this Court in the facts and circumstances of the case.

8. That apart, an earlier writ petition filed by the appellants was also entertained by this Court.

9. We make it clear that the merits of the matter have not been gone into and it is for the Deputy Commissioner of Revenue, Commercial Taxes, West Bengal, Chandni Chawk and Princep St. Charge to consider the entire facts and pass a speaking and reasoned order on merits and in accordance with law.

10. No costs.

11. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(BIVAS PATTANAYAK, J.)